

IN THE UNITED STATES DISTRICT COURT  
FOR THE EASTERN DISTRICT OF NORTH CAROLINA  
WESTERN DIVISION  
No. 5:17-CV-23-H

MARILYNN McRAE, )  
                    )  
Plaintiff,        )  
                    )  
v.                )  
                    )  
                    )  
SHERIFF DONNIE HARRISON,     )  
In his official capacity,    )  
                    )  
Defendant        )

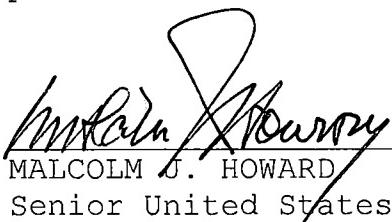
**ORDER**

This matter is before the court on defendant's motion to dismiss plaintiff's complaint pursuant to Rule 12(b)(1) and (6) of the Federal Rules of civil Procedure. [DE #17]. Magistrate Judge Kimberly A. Swank filed an Order and Memorandum and Recommendation ("M&R") on August 16, 2018, recommending that defendant's motion to dismiss be dismissed as moot in light of the amendment as of right of plaintiff's complaint. Defendant and Plaintiff both filed responses to the M&R. Defendant does not object to the M&R but rather seeks clarification on several matters relating to case management.

A full and careful review of the M&R and other documents of record convinces the court that the recommendation of the magistrate judge is, in all respects, in accordance with the law and should be approved. Accordingly, the court adopts the recommendation of the magistrate judge as its own. For the reasons stated therein, defendant's motion to dismiss [#17] is DISMISSED AS MOOT.

This matter is referred to Magistrate Judge Swank to address any needed amendments to the case management order.

This 10<sup>th</sup> day of September 2018.

  
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MALCOLM J. HOWARD  
Senior United States District Judge

At Greenville, NC  
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